

IN SENATE OF THE UNITED STATES.

AUGUST 12, 1848.

Submitted, and ordered to be printed.

Mr. BRADBURY, made the following

REPORT:

*The Committee of Claims, to whom was referred the "memorial of E. P. Calkin & Co., of Galveston, Texas, praying indemnity for goods alleged to have been illegally seized by the collector at Galveston," have had the same under consideration and report:*

That the memorial of the petitioners states that they are merchants residing and trading in the city of Galveston, in the State of Texas; that on the 31st of December, 1845, Congress passed a law "to establish a collection district for Texas, and for other purposes;" and on the 9th of January, 1846, the Secretary of the Treasury of the United States issued a circular, in which it was declared that "vessels and their cargoes arriving at any port in Texas, either from a foreign port or a port in any other State or territory of the United States, are to be placed on a similar footing with vessels and their cargoes arriving at ports in any of the States of the Union." That the petitioners, believing that the laws of the United States are paramount to those of one of the States of the Union, and that under those laws they would be protected in the peaceable and quiet pursuit of their business, purchased, on the 27th of January, 1846, in the city of New Orleans, a quantity of merchandise, principally of the growth and manufacture of the United States, of the value of about four thousand five hundred dollars, which goods were landed at Galveston on the thirtieth of January, 1846, when the collector for the republic of Texas refused to permit the petitioners to receive them, unless the duties claimed by him for said republic, amounting to about one thousand dollars, should be first paid. The petitioners refused to comply with this demand, and protested in due form; and, on the 3d of February, 1846, addressed a memorial to the Secretary of the Treasury asking relief. On the 27th of the same month the Secretary sent an answer, stating his inability to afford the relief prayed for, and referring the petitioners to the proper legal tribunals or Congress for redress. At the same time, he sent a copy of the letter, above

mentioned, to the collector of the customs at Galveston. The petitioners now apply to Congress for relief, and ask for the passage of a law giving them compensation for the damages which they have sustained in the premises.

It is proper for your committee to remark, in the first place, that it does not appear from the statement of the petitioners, nor is it claimed that any part of the money accruing from the sale of their goods, has ever come into the treasury of the United States. Nor is it pretended that the individual who undertook to act as collector of the port of Galveston, after the final admission of Texas into the Union as a State, acted under the authority of the United States. On the contrary it is declared that he claimed to act under his commission from the authorities of the *republic of Texas*.

Why then should the United States be called upon to pay damages thus sustained by the memorialists? If the act of the collector in enforcing the payment of duties upon the goods of the petitioners was an unlawful act, *he* is responsible for it, and the law of the land affords a remedy.

It is contended by the collector that the laws of Texas remained in force until the 16th of February, 1846, by virtue of the clause contained in the 10th section of the constitution of Texas, which provides "that the laws of this republic, relative to the duties of officers, both civil and military of the same, shall remain in full force, and the duties of their several offices shall be performed in conformity with existing laws, until the organization of the government of the State, under this constitution, or until the first meeting of the legislature."

By article 1, section 8, of the constitution of the United States, the power is given to Congress "to lay and collect taxes, duties, imports, and excises," and by section 10, of the same article, it is declared "that no State shall lay any impost, or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws."

Upon the admission of the State of Texas into the Union, every provision in her laws or constitution conflicting with the powers secured by the constitution of the United States to Congress, became void. The State of Texas could not, by any resolution or provision in her constitution, retain to herself, for a moment or a day, after her admission, any power to lay duties on imports, in conflict with the constitution of the United States. Nor could she authorize a collector of customs, an officer appointed under her laws while she was an independent republic, to continue to exercise the duties of such office under like circumstances.

We do not deem this to be a case where the intervention of Congress is necessary, and we therefore report that the prayer of the memorialist ought not to be granted.

